

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE TARIFF FILING OF LOUISVILLE GAS	)	
AND ELECTRIC COMPANY TO MODIFY ITS FIRM	)	CASE NO. 95-037
TRANSPORTATION SERVICE TARIFF	)	

O R D E R

This matter arising upon petition of Louisville Gas and Electric Company ("LG&E"), filed April 7, 1995, for confidential protection of certain of its responses to Items 21 and 27 of the Data Request propounded by Commonwealth Energy Services ("CES") on the grounds that disclosure of the information is likely to cause LG&E competitive injury and it appearing to this Commission as follows:

CES, as an intervenor in this proceeding, has requested certain information in the form of data requests from LG&E. In responding to those data requests, LG&E has petitioned that portions of its responses to Items 21 and 27 be protected as confidential on the grounds that disclosure of the information is likely to cause LG&E competitive injury. LG&E does not object to providing the information pursuant to a mutually acceptable protective agreement and has tendered a proposed protective agreement with its petition.

The information sought to be protected is not known outside of LG&E and is not disseminated within LG&E except to those employees who have a legitimate business need to know and act upon the information.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That subsection of the statute exempts several categories of information. One category exempted in paragraph (c)1 of that subsection is commercial information confidentially disclosed to the Commission which if made public would permit an unfair commercial advantage to competitors of the party from whom the information was obtained. To qualify for the exemption, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

In its response to Item 21, LG&E has provided the percentage of its gas supply that comes from long-term agreements. Disclosure of this information would enable LG&E's competitors for both natural gas supply and natural gas load to determine LG&E's mix of long-term and short-term gas purchases. Knowledge of this information would affect LG&E's ability to negotiate future gas supply contracts at advantageous prices. Therefore, disclosure of the information is likely to cause LG&E competitive injury and the information should be protected as confidential.

LG&E's response to Item 27 provides the details of the bids received by LG&E in response to a price solicitation for telemetering equipment. Although this information is submitted on

a sealed-bid basis for each purchase, disclosure of the information would allow future bidders to manipulate the process so they can maximize the bids they tender for purchases in the future. Therefore, disclosure of the information is likely to cause LG&E competitive injury and the information should be protected as confidential.


This Commission being otherwise sufficiently advised,


IT IS ORDERED that the portions of LG&E's responses to Items 21 and 27 of CES's data request, which LG&E has petitioned to be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 2nd day of August, 1995.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director